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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,143	08/18/2003	Thomas Alan Bulk		6989

7590 05/31/2005  
Thomas A Bulk  
20798 Amberview Ct  
Ashburn, VA 20147

EXAMINER	
MILLER, BENA B	
ART UNIT	PAPER NUMBER
3725	

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/643,143	BULK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Bena Miller	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

*Bena B. Miller*

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with indefiniteness that is too numerous to point out in every instance. The following examples are provided for the applicant use in making corrections wherever appropriate but not specifically pointed to.

Regarding claims 1-6, there is lack of antecedent basis for the limitations "the vertical post front face" as recited line 2 of the claims, "said distance between the in-turned lip surface of the front and rear vertical posts" as recited in line 5 of claim 1, "the front and rear vertical posts" as recited in line 10 of claim 2, "said cross member bracket wall material" as recited in line 7 of claim 3 and "said right angle brace flange" as recited in line 6 of claim 6.

Regarding claim 1, it is not clear if "the two vertical posts" recited in line 5 the same as the vertical post recited in line 1. Further it is not clear how "a particular type of dimensional lumber pieces times the width dimension defined by the American Lumber Standar, and some tolerance to cover wood moisture content and board warp" further structurally limit the claim.

Regarding claim 2, it is not clear if the "vertical posts" recited in line 5 the same as the vertical posts recited in line 2. Line 4 recites "a cross member"; however, line 10

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recites "cross members". It is not clear if there is more than one cross member and if so, if the cross members the same as the cross member recited in line 4.

Regarding claims 1-6, it is not clear what is encompassed by the phrase "some other protrusion". In other words, it is not clear what are the "some other protrusions" contained by the brackets.

Regarding claim 3-5, the element "vertical posts" recited in line 5 in the claims the same as the vertical posts recited in line 1 of the claims.

Regarding claim 5, it is not clear if the lip recited in line 9 the upper or lower lip.

Regarding claim 6, lines 4 and 5 recite "front cross member bracket side wall to rear cross member side wall" is the same as the end brackets of the cross members recited in line 2.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson et al (US Patent # 6,155,441) or McConnell (US Patent # 4,729,484).

Regarding claim 1-7, as best as understood, Anderson et al teaches in the figures a rack structure comprising a rectangular vertical posts (17), a cross member (12) with end brackets (24; It should be noted that the Examiner takes the position that the brackets of Anderson et al. has a welded connection), a steel structure having an

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outer wall, upper surface, inner wall, upper lip, lower lip (12; fig. 2) and cross member (24) and a right angle brace flange (24, fig.2). It should be noted that the Examiner takes the position that in-turned lip surface (fig.7) is equivalent to the integral number of the dimensional lumber pieces.

Regarding claim 1-7, as best as understood, McConnell teaches in the figures a rack structure comprising a rectangular vertical posts (18), a cross member (12) with end brackets (28; col. 1, par. 2), a steel structure having an outer wall, upper surface, inner wall, upper lip, lower lip (fig. 1) a right angle brace flange (30). It should be noted that the Examiner takes the position that in-turned lip surface (fig.1) is equivalent to the integral number of the dimensional lumber pieces.

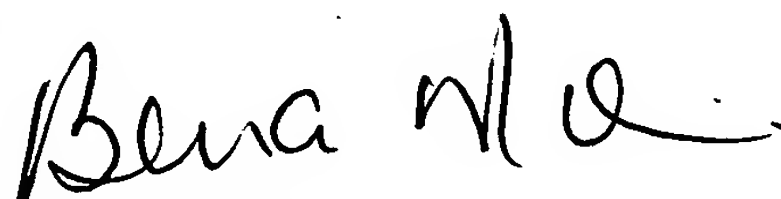
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Bena Miller  
Primary Examiner  
Art Unit 3725

bbm  
May 26, 2005